

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

TUESDAY, THE 3RD OCTOBER 2006 / 11TH ASWINA 1928

CRL.A.No. 700 of 2003

CC.662/1999 of CHIEF JUDICIAL MAGISTRATE, KASARAGOD

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APPELLANT: COMPLAINANT

M/S.KASARGOD SELF EMPLOYEES FINANCING
COMPANY, KASARGOD, REPRESENTED BY ITS POWER
OF ATTORNEY HOLDER K.SATHEESHAN.

BY ADV. SRI.K.JAJU BABU

RESPONDENTS: ACCUSED & STATE

1. C.MAHIN, S/O. LATE C.H.AHAMMED,
BERKA HOUSE, P.O.CHENGALA.
2. THE STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI.SURESH KUMAR KODOTH
PUBLIC PROSECUTOR K.S. SIVAKUMAR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD
ON 03/10/2006, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

J.M.JAMES, J.

CRL.A. 700/2003

DATED THIS THE 3RD DAY OF OCTOBER, 2006

JUDGMENT

The complainant, in C.C.No.662/1999 on the file of the Chief Judicial Magistrate Court, Kasargode, is the appellant. The complaint was preferred under Section 138 of the Negotiable Instruments Act, in short 'the Act'. The case stood posted before the Court below for evidence, on the appointed date, viz. 20.11.2002. When the impugned order was passed, the complainant was absent. As the complaint was filed on 6.11.1999, the petition to excuse the absence of the complainant was rejected and the accused was acquitted, under Section 256 Cr.P.C. Hence this appeal.

2. After considering the facts that are on record, I set aside the impugned order and restore C.C.No.662/1999 on the file of the Chief Judicial Magistrate Court, Kasargode.

3. The learned Magistrate shall give opportunities

to both sides to adduce evidence and dispose of the matter as expeditiously as possible, in any case within three months from the date of appearance of the parties, before that Court.

4. The parties shall appear before the Court below, on 3.11.2006.

The appeal is disposed of as above.

**J.M.JAMES
JUDGE**

mrCS